GOVERNOR GREG ABBOTT

May 18, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
12:15PM O'CLOCK
MAY 18 2021
Secretary of State

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

> Executive Order No. GA-36 relating to the prohibition of governmental entities and officials from mandating face coverings or restricting activities in response to the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
May 18, 2021

EXECUTIVE ORDER
GA 36

Relating to the prohibition of governmental entities and officials from mandating face coverings or restricting activities in response to the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, I issued Executive Order GA-34 on March 2, 2021, to open Texas 100 percent and remove face-covering requirements; and

WHEREAS, since then, COVID-19 hospitalizations and the rate of new COVID-19 cases have continued their steady decline; and

WHEREAS, Executive Order GA-34 specifically provides that "no person may be required by any jurisdiction to wear or to mandate the wearing of a face covering," and, notwithstanding that order, some local governmental entities have caused confusion by nonetheless purporting to require face coverings; and

WHEREAS, Executive Order GA-34 also provides that "there are no COVID-19-related operating limits for any business or other establishment," that any "conflicting order issued by local officials in response to the COVID-19 disaster" is superseded, and that all relevant statutes are suspended to the extent necessary to preclude inconsistent local orders; and

WHEREAS, to further ensure statewide uniformity, and based on the continued improvement of conditions in Texas, revised standards are appropriate to achieve the least restrictive means of combatting COVID-19; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility "for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and expressly granted the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders ... hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

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WHEREAS, under Section 418.018(c), the "governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area;" and

WHEREAS, under Section 418.173, the legislature authorized as "an offense," punishable by a fine up to $1,000, any "failure to comply with the [state emergency management plan] or with a rule, order, or ordinance adopted under the plan;"

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. No governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering; *provided, however, that*:
   a. state supported living centers, government-owned hospitals, and government-operated hospitals may continue to use appropriate policies regarding the wearing of face coverings; and
   b. the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, and any county and municipal jails acting consistent with guidance by the Texas Commission on Jail Standards may continue to use appropriate policies regarding the wearing of face coverings.
2. Notwithstanding the above, public schools may continue to follow policies regarding the wearing of face coverings to the extent reflected in current guidance by the Texas Education Agency, until June 4, 2021. The Texas Education Agency shall revise its guidance such that, effective 11:59 p.m. on June 4, 2021, no student, teacher, parent, or other staff member or visitor may be required to wear a face covering.
3. This executive order shall supersede any face-covering requirement imposed by any local governmental entity or official, except as explicitly provided in paragraph numbers 1-2. To the extent necessary to ensure that local governmental entities or officials do not impose any such face-covering requirements, I hereby suspend the following:
   a. Sections 418.1015(b) and 418.108 of the Texas Government Code;
   b. Chapter 81, Subchapter E of the Texas Health and Safety Code;
   c. Chapters 121, 122, and 341 of the Texas Health and Safety Code;
   d. Chapter 54 of the Texas Local Government Code; and
   e. any other statute invoked by any local governmental entity or official in support of a face-covering requirement.

   Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any such face-covering requirement by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to $1,000, beginning at 11:59 p.m. on May 21, 2021.

4. Under Executive Order GA-34, business activities and legal proceedings are free to proceed without COVID-19-related limitations imposed by local governmental entities or officials, in all counties not in an area of high hospitalizations as defined in that executive order. Executive Order GA-34 also superseded any conflicting local order in response to the COVID-19 disaster, and directed that all relevant laws

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are suspended to the extent necessary to preclude any such inconsistent local orders. Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any conflicting or inconsistent limitation by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to $1,000, beginning at 11:59 p.m. on May 21, 2021.

This executive order supersedes subparagraph numbers 1(b) and 2(c)(iii) of Executive Order GA-34, but does not otherwise supersede Executive Orders GA-10, GA-13, GA-34, or GA-35. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.

Given under my hand this the 18th day of May, 2021.

GREG ABBOTT
Governor

ATTESTED BY:

RUTH R. HUGHS
Secretary of State

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